

REMARKS

Claims 1-18 are currently pending in this application. Claims 1 and 4 have been amended. New claims 17 and 18 have been added. No new matter has been added by these amendments or additions. Applicant has carefully reviewed the Office Action and respectfully request reconsideration of the claims in view of the remarks presented below.

Statement Regarding Common Ownership or Obligation of Assignment

David Sarisky, an attorney of record for the present U.S. Patent Application 10/667,112 ("the `112 application"), states that the `112 application and U.S. Patent No. 6,731,985 (Poore), were at the time the invention of the `112 application was made, owned by Pacesetter, Inc. or subject to an obligation of assignment to Pacesetter, Inc.

Claim Rejections Under 35 U.S.C. §103

Claims 1-6, 9 and 13-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,350,410 (Kleks) in view of U.S. Patent No. 6,731,985 (Poore). Poore is prior art under 35 U.S.C. §102(e).

Without addressing the merits of the rejection of claims 1-6, 9 and 13-16, in accordance with the American Inventors Protection Act, Poore does not qualify as prior art under 35 U.S.C. §103(a) via 35 U.S.C. §102(e) because the `112 application was filed on or after November 29, 1999 and the subject matter of Poore and pending claims 1-6, 9 and 13-16 were, at the time the invention was made, owned by or subject to an obligation of assignment to the same organization (see above "Statement Regarding Common Ownership or Obligation of Assignment"). In view of the foregoing, Applicant requests withdrawal of the §103 rejections of claims 1-6, 9 and 13-16.

Allowable Subject Matter

Claims 7, 8 and 10-12 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

In view of the remarks presented above with respect to the rejections of independent claims 1 and 5, Applicant believes claims 7, 8 and 10-12 are allowable without amendment. Applicant, however, reserves the right to amend these claims at a later time.

New Claims 17 and 18

New claim 17 is a device claim that includes subject matter similar to method claim 1. Likewise, claim 18 is a device claim that includes subject matter similar to method claim 5. These claims are believed allowable for the same reasons as claims 1 and 5, respectively.

CONCLUSION

Applicant has made an earnest and bona fide effort to clarify the issues before the Examiner and to place this case in condition for allowance. Therefore, allowance of Applicant's claims 1-18 is believed to be in order.

Respectfully submitted,

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Date



David S. Sarisky
Attorney for Applicant
Reg. No. 41,288
818-493-3369

CUSTOMER NUMBER: 36802